

MINUTES OF THE REGULAR MEETING OF THE BUTTE-SILVER BOW COUNCIL OF COMMISSIONERS

MARCH 19, 2008

The **Regular Meeting** of the Council of Commissioners was called to order Wednesday, **March 19, 2008** in the Council Chambers, Third Floor, Room 312, Courthouse Building, 155 West Granite Street, Butte, Montana by Chief Executive Paul Babb.

ROLL CALL

10 present, 2 absent. Commissioners Granger and Mulcahy were excused.

PRAYER

Commissioners were led in prayer by Commissioner Fay.

APPROVAL OF THE MINUTES OF THE REGULAR MEETING OF MARCH 5, 2008

It was moved by Commissioner O'Leary, seconded by Commissioner Lee and carried by a unanimous verbal vote to approve the Minutes of the Regular Meeting of March 5, 2008.

ITEMS NOT ON THE AGENDA – SUSPENSION OF THE RULES

It was moved by Commissioner O'Leary, seconded by Commissioner Lee and carried by a roll call vote of 10 yeas and 2 absent that in accordance with the provisions of subsection 6 of Rule VI of the Rules of Business of the Council of Commissioners of the city and county of Butte-Silver Bow, State of Montana , the council hereby finds that an emergency condition exists which requires that the Council rules be suspended to allow communication No. 08-195 to be added to the agenda of tonight's Regular Meeting of the Council.

PUBLIC COMMENT ON ANY PUBLIC MATTER NOT ON THE AGENDA

None

CHIEF EXECUTIVE'S REPORT

Chief Executive Babb reported that he has met with the Employee Enhancement Committee a few times to go through the report. We are compiling information that will be brought forward to the Council of Commissioners in the near future.

They had 130 people show up for the first visioning session for the Master Plan for the parks. There were people from almost every group and every age. It was a great first start. There will be more to come on that.

He talked with the development people of Home Depot to see if there has been any decision made. All of the information from the development side has been passed on to Home Depot and they have not made a decision yet.

He has been in contact with the Governor's office to find out how we are going to put the team together that will be working on all aspects of making the Ferlander project a reality. He had a conference call here two weeks ago to talk with the people in the Department of Commerce. He is still waiting for Evan Barrett to get back to him.

SECTION I

PUBLIC HEARING

FOR THE PURPOSE TO SOLICIT COMMENTS REGARDING THE APPLICATION FOR AND THE ALLOCATION OF THE JAG (JUSTICE ASSISTANCE GRANT) GRANT FUNDS FROM THE BUREAU OF JUSTICE ASSISTANCE. (Communication No. 08-149 being held in Committee of the Whole) Proof of publication was noted and placed on file.

Chief Executive Babb called attention to Section IV, which is a duplication of this public hearing.

Jeff Amerman, Finance and Budget Director, told the council that the purpose of this public hearing is just to satisfy the requirement of the JAG Grant Program. Normally, we don't hold a public hearing to ask permission to apply for a grant. This was a grant requirement.

Chief Executive Babb opened the public hearing at 7:34 PM and called for any proponents. On the third and final call, there being none he then called for any opponents. Again, there was no response so he closed the public hearing at 7:35 PM.

SECTION II

PRESENTATION COMMUNICATION NO. 08-177

John C. VanDaveer, Director of Public Works Department, requesting time on the 3/19/08 agenda for the purpose of presenting the 2008 Road Plan.

John VanDaveer, Director of the Public Works Department, explained that Jim McCarthy and Dan Dennehy and himself are here to inform you of our road maintenance work plan for this season. A power point presentation was made and questions from the council were answered.

SECTION III **PRESENTATION**
COMMUNICATION NO. 08-179

Tim Lynch, General Manager UDAP Industries, Inc., requesting time on the 3/19/08 agenda to present a building project and discuss the tax abatement option for the new construction.

Tim Lynch, General Manager UDAP Industries, Inc. came forward and made his presentation telling the council that UDAP Industries is a bear and pepper spray company out of Bozeman. This will be just a distribution center here in Butte. They have purchased property at 4899 Harrison Avenue.

It was moved by Commissioner O’Leary, seconded by Commissioner Lee and carried by a unanimous verbal vote to refer Communication No. 08-179 to the Committee of the Whole.

SECTION IV **PUBLIC HEARING**

FOR THE PURPOSE TO SOLICIT COMMENTS REGARDING THE APPLICATION FOR AND THE ALLOCATION OF THE JAG (JUSTICE ASSISTANCE GRANT) GRANT FUNDS FROM THE BUREAU OF JUSTICE ASSISTANCE. (Communication No. 08-149 being held in Committee of the Whole)
Proof of publication

NOTE: This is a duplication of Section I. **It was moved by Commissioner O’Leary, seconded by Commissioner Lee and carried with a unanimous verbal vote to delete Section IV since it is a duplicate of Section I.**

SECTION V **CONSENT AGENDA**

- A.**
1. COMMITTEE OF THE WHOLE MEETING REPORT
 2. FINANCE AND BUDGET COMMITTEE MEETING REPORT
 3. JUDICIARY COMMITTEE MEETING REPORT
 4. PUBLIC WORKS COMMITTEE MEETING REPORT

B. **PETITIONS**

1. 08-1 John Harrington, Building Official, submitting petition on behalf of Park Street Partnership, LLC, to close and vacate a portion of Galena Street and three alleys in Yellow Jack Lode, Lizzie Lode

and Colorado Lode. **Recommendation: refer to Public Works Committee**

2. 08-5 John Harrington, Building Official, submitting petition on behalf of Walker-Smith, to close and vacate Wyoming Street in its entirety from Harrison to West Side of Washington – Mc Queeney Subdivision. **Recommendation: refer to Public Works Committee.**

C. COMMUNICATIONS

Before entertaining a motion for approval of the Consent Agenda, Chief Executive Babb called for any segregations or “friendly amendments” Commissioner Coleman asked for segregation of Item 13, Communication No. 08-185.

It was then moved by Commissioner O’Leary, seconded by Commissioner Lee and carried with a unanimous verbal vote to approve the Consent Agenda, Section A, 1 through 4, Section B, Items 1 through 2, Section C, Items 1 through 21 with the exception of Item 13, Communication No. 08-185.

Commissioner Coleman said the reason he segregation No. 08-185 was because Ravonda Stordahl is present tonight. In case there is any questions they are here to answer. Ms. Stordahl came to the microphone and said they do have a plan in place. We are going to be pursuing funding from the State of Montana through tax credits and through the Home Fund. We anticipate actually starting to build next summer.

It was moved by Commissioner Coleman, seconded by Commissioner Lee and carried with a unanimous verbal vote to concur with the request and have a resolution prepared to transfer the property to the Public Housing Authority and hold in Committee of the Whole.

SECTION VI COMMUNICATIONS TO BE READ AND ACTED UPON

1. 08-169 Rick Griffith, Airport Manager, requesting authorization for Chief Executive to sign agreement with Department of Defense for F86 Airplane that sits in front of the Airport Terminal.

Chairman O’Leary stated that the reason he placed this on the agenda to be read and acted upon was to have the County Attorney assure that the agreement is in perfect order and also to have him address this business of perpetuity. Mr. McCarthy said the council

can approve a multi-year agreement. The council cannot authorize a series of consecutive agreements going on in perpetuity with the separate agreements to be signed without the council approving it.

It was moved by Commissioner O’Leary, seconded by Commissioner Lee and carried with a unanimous verbal vote to send the agreement to the County Attorney for review and report to the Committee of the Whole. Refer the Communication to the Committee of the Whole.

2. 08-174 Paul Babb, Chief Executive, requesting concurrence in approval of the Grant Award of \$7,260.00 to Biggers Transport Silver Bow Truck and Auto Center.

Mr. Babb said Mr. Biggers has been called to Moses Lake and is unable to be here tonight. He requests that we send this to Committee of the Whole.

It was moved by Commissioner O’Leary, seconded by Lee and carried with a unanimous verbal vote to hold the Communication in Committee of the Whole;

Communication No. 08-195 (Emergency Communication)

Robert M. McCarthy, County Attorney, requesting council approve the request to stop payment on Check No. 09-705 in the amount of \$80.00

It was moved by Commissioner O’Leary, seconded by Commissioner Lee and carried with a roll call vote of 10 yeas, 0 nays, and 2 absent to concur with the request and place on file.

SECTION VII

**ORDINANCES AND RESOLUTIONS –
REFERRED TO JUDICIARY**

1. COUNCIL RESOLUTION NO. 08-18

A RESOLUTION APPROVING THE BUTTE-SILVER BOW DUI TASK FORCE PROGRAM PLAN FOR FISCAL YEAR 2007 - 2008 AND AUTHORIZING THE SUBMITTAL OF THE REPORT TO THE MONTANA HIGHWAY SAFETY DIVISION OF THE MONTANA DEPARTMENT OF JUSTICE AND PROVIDING FOR AN EFFECTIVE DATE HEREIN.

SECTION VIII

ORDINANCES AND RESOLUTIONS – FINAL PASSAGE

1. COUNCIL RESOLUTION NO. 08-7

A RESOLUTION AMENDING THE BUDGET DURING THE FISCAL YEAR AFTER CONDUCTING A PUBLIC HEARING AT A REGULARLY SCHEDULED MEETING OF THE COUNCIL OF COMMISSIONERS IN ACCORDANCE WITH SECTION 7-6-4006, MCA; APPROPRIATING BUTTE-SILVER SPECIAL TRUST FUND RESERVES TO THE GENERAL FUND IN THE BUTTE-SILVER BOW PLANNING DEPARTMENT TO COMPLETE CAPITAL IMPROVEMENTS TO THE ALUMNI COLISEUM ON THE MONTANA TECH CAMPUS ON BEHALF OF THE AMERICAN LEGION BASEBALL ORGANIZATION AND PROVIDING FOR AN EFFECTIVE DATE HEREIN. **It was moved by Commissioner O’Leary, seconded by Commissioner Lee and carried with a roll call vote of 10 yeas and 0 nays, and 2 absent to place Council Resolution No. 08-7 on final reading and passed having been deemed fully read at length.**

2. COUNCIL RESOLUTION NO. 08-9

A RESOLUTION SUPPORTING THE REQUEST OF ROBERT GEE, REGISTERED AGENT FOR SUMMIT VALLEY AUTO SALVAGE, INC., A MONTANA CORPORATION, FOR A MOTOR VEHICLE WRECKING FACILITY TO BE LOCATED AT 705 E. IRON STREET, BUTTE, MONTANA WITHIN THE CITY AND COUNTY OF BUTTE-SILVER BOW, MONTANA AND PROVIDING FOR AN EFFECTIVE DATE HEREIN. **It was moved by Commissioner O’Leary, seconded by Commissioner Lee and carried with a roll call vote of 10 yeas and 0 nays, and 2 absent to place Council Resolution No. 08-9 on final reading and passed having been deemed fully read at length.**

3. COUNCIL RESOLUTION NO. 08-10

A RESOLUTION CALLING FOR AN ELECTION ON THE CONTINUATION OF THE IMPOSITION OF A 1.34 MILL LEVY TO BE ADJUSTED ANNUALLY TO RAISE AT LEAST \$65,000.00 FOR ECONOMIC DEVELOPMENT PURPOSES FOR A FOUR YEAR PERIOD BEGINNING IN FISCAL YEAR 2008 – 2009 AND PROVIDING FOR AN EFFECTIVE DATE HEREIN. **It was moved by Commissioner O’Leary, seconded by Commissioner Lee and carried with a roll call vote of 10 yeas, 0 nays and 2 absent to place Council Resolution No. 08-10 on final reading and passed having been deemed fully read at length.**

4. COUNCIL RESOLUTION NO. 08-11

A RESOLUTION AMENDING THE BUDGET DURING THE FISCAL YEAR AFTER CONDUCTING A PUBLIC HEARING AT A REGULARLY SCHEDULED MEETING OF THE COUNCIL OF COMMISSIONERS IN ACCORDANCE WITH SECTION 7-6-4006, MCA; APPROPRIATING UNANTICIPATED REVENUE TO THE BUTTE-SILVER BOW HEALTH DEPARTMENT FROM THE MONTANA STATE DEPARTMENT OF HEALTH AND HUMAN SERVICES, MONTANA COMPREHENSIVE CANCER CONTROL PROGRAM TO BE EXPENDED IN THE BUTTE-SILVER BOW HEALTH DEPARTMENT FUND FOR THE PURPOSE OF IMPLEMENTING COMPREHENSIVE CANCER PREVENTION AND CONTROL ACTIVITIES. **It was moved by Commissioner O’Leary, seconded by Commissioner Lee and carried with a roll call vote of 10 yeas, 0 nays, and 2 absent to place Council Resolution No. 08-11 on final reading and passed having been deemed fully read at length.**

5. COUNCIL RESOLUTION NO. 08-12

A RESOLUTION AMENDING THE BUDGET DURING THE FISCAL YEAR AFTER CONDUCTING A PUBLIC HEARING AT A REGULARLY SCHEDULED MEETING OF THE COUNCIL OF COMMISSIONERS IN ACCORDANCE WITH SECTION 7-6-4006, MCA; APPROPRIATING UNANTICIPATED REVENUE TO THE BUTTE-SILVER BOW COMMUNITY DEVELOPMENT DEPARTMENT FROM THE MONTANA STATE HISTORIC PRESERVATION OFFICE TO BE EXPENDED IN THE COMMUNITY DEVELOPMENT FUND FOR THE PURPOSE OF A DO-IT-YOURSELF HISTORIC PRESERVATION WORKSHOP SERIES PLANNED AND IMPLEMENTED BY BUTTE CITIZENS FOR PRESERVATION AND REVITALIZATION AND PROVIDING FOR AND PROVIDING FOR AN EFFECTIVE DATE HEREIN. **It was moved by Commissioner O’Leary, seconded by Commissioner Lee and carried with a roll call vote of 10 yeas, 0**

nays and 2 absent to place Council Resolution No. 08-12 on final reading and passed having been deemed fully read at length.

6. COUNCIL RESOLUTION NO. 08-13

A RESOLUTION AMENDING THE BUDGET DURING THE FISCAL YEAR AFTER CONDUCTING A PUBLIC HEARING AT A REGULARLY SCHEDULED MEETING OF THE COUNCIL OF COMMISSIONERS IN ACCORDANCE WITH SECTION 7-6-4006, MCA; APPROPRIATING UNANTICIPATED REVENUE TO THE BUTTE-SILVER BOW COMMUNITY DEVELOPMENT DEPARTMENT FROM THE ENVIRONMENTAL PROTECTION AGENCY TO BE EXPENDED IN THE COMMUNITY DEVELOPMENT FUND FOR THE PURPOSE TO PROVIDE EQUIPMENT AND FINANCIAL SUPPORT TO THE GREENHOUSE NURSERY HARDENING FACILITY ON THE MONTANA TECH CAMPUS AND PROVIDING FOR AN EFFECTIVE DATE HEREIN. **It was moved by Commissioner O'Leary, seconded by Commissioner Lee and carried with a roll call vote of 10 yeas, 0 nays and 2 absent to place Council Resolution No. 08-12 on final reading and passed having been deemed fully read at length.**

7. COUNCIL RESOLUTION NO. 08-14

A RESOLUTION AMENDING THE BUDGET DURING THE FISCAL YEAR AFTER CONDUCTING A PUBLIC HEARING AT A REGULARLY SCHEDULED MEETING OF THE COUNCIL OF COMMISSIONERS IN ACCORDANCE WITH SECTION 7-6-4006, MCA; APPROPRIATING UNANTICIPATED REVENUE TO THE BUTTE-SILVER BOW COMMUNITY DEVELOPMENT DEPARTMENT FROM THE NATURAL RESOURCE DAMAGE PROGRAM TO BE EXPENDED IN THE COMMUNITY DEVELOPMENT FUND FOR THE PURPOSE TO CONTINUE WORK ALONG THE SILVER BOW CREEK GREENWAY AND PROVIDING FOR AN EFFECTIVE DATE HEREIN. **It was moved by Commissioner O'Leary, seconded by Commissioner Lee and carried by a roll call vote of 10 yeas, 0 nays, and 2 absent to place Council Resolution No. 08-14 on final reading and passed having been deemed fully read at length.**

8. COUNCIL RESOLUTION NO. 08-15

A RESOLUTION AMENDING THE BUDGET DURING THE FISCAL YEAR AFTER CONDUCTING A PUBLIC HEARING AT A REGULARLY SCHEDULED MEETING OF THE COUNCIL OF COMMISSIONERS IN ACCORDANCE WITH SECTION 7-6-4006, MCA; APPROPRIATING UNANTICIPATED REVENUE TO THE BUTTE-SILVER BOW COMMUNITY DEVELOPMENT DEPARTMENT FROM THE MONTANA STATE HISTORIC PRESERVATION OFFICE TO BE EXPENDED IN THE COMMUNITY DEVELOPMENT FUND FOR THE PURPOSE TO EDIT A

SPECIAL ISSUE OF DRUMLUMMON VIEW BUTTE-ANACONDA ON-LINE ARTS AND CULTURE JOURNAL, PLANNED AND IMPLEMENTED BY THE MONTANA PRESERVATION ALLIANCE AND PROVIDING FOR AN EFFECTIVE DATE HEREIN. **It was moved by Commissioner O’Leary, seconded by Commissioner Lee and carried by a roll call vote of 10 yeas, 0 nays and 2 absent to place Council Resolution No. 08-15 on final reading and passed having been deemed fully read at length.**

9. COUNCIL RESOLUTION NO. 08-17

A RESOLUTION GRANTING CONDITIONAL APPROVAL OF THE FINAL PLAT OF THE MSE MINOR SUBDIVISION – SUMMARY REVIEW OF THE CITY AND COUNTY OF BUTTE-SILVER BOW, STATE OF MONTANA AND PROVIDING FOR THE REPEAL OF ALL PARTS OF RESOLUTIONS IN CONFLICT HERewith AND PROVIDING FOR AN EFFECTIVE DATE HEREIN. **It was moved by Commissioner O’Leary, seconded by Commissioner Lee and carried by a roll call vote of 10 yeas, 0 nays, and 2 absent to place Council Resolution No. 08-17 on final reading and passed having been deemed fully read at length.**

ADJOURN

There being no further business to come before the Council, it was moved by Commissioner O’Leary, seconded by Commissioner Lee and carried by unanimous verbal vote to Rise to the Call of the Chair.

The meeting adjourned at 9:30 PM.

CHIEF EXECUTIVE

ATTEST:

CLERK AND RECORDER

